

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.474 OF 2021

Prashant Anant Patil

Applicant

versus

The State of Maharashtra

Respondent

Adv.Rupali Gothwal Rajput i/by S.G.Rajput for applicant.
Mr.S.S.Pednekar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 8th March 2021

PC :

1. This is an application for anticipatory bail in CR No.895 of 2020 registered with Virar Police Station for offences under Sections 52, 53, 54 of MRTP Act. Subsequently Section 14 of MOFA Act, Sections 3 and 4 of MPID Act were invoked. Section 420 of IPC is also invoked.

2. The FIR was registered on 14th October 2020 by employee of Vasai-Virar Municipal Corporation. It was alleged that the building was constructed unauthorizedly on the plot of land bearing Survey No.226, Hissa no.3, at Virar. The said building was constructed by Hitesh Satikumar.. No permission was obtained. Notice was given to him to stop unauthorized construction. In spite of that the construction was continued. The flats were sold to purchasers and on obtaining huge amount towards rentals, some of the flats were let out to various persons. It is further alleged that development agreement was executed between developer Hitesh Satikumar and

Ajay Toraskar. The applicant is listed as tenant (Kul) in respect to the said plot of land where the building is constructed. He is not the owner of plot. The names of owners are also reflected on 7/12 extract. The applicant executed power of attorney with Ajay Toraskar.

3. The applicant preferred an application for anticipatory bail before Sessions Court which has been rejected vide order dated 25th January 2021.

4. Learned advocate for applicant submitted that applicant has not been named in the FIR. He is not involved in carrying out unauthorized construction. In the 7/12 extract applicant's name is mentioned as Kul. The applicant is not beneficiary of the amount. There is no evidence to show that applicant has accepted any amount from the purchasers of the flat premises. The construction was carried out by Hitesh Satikumar.

5. Learned APP submitted that the developer had constructed building without obtaining any permission. The applicant has executed power of attorney with Ajay Toraskar. By utilizing said power of attorney, Ajay Toraskar had executed development agreement with Hitesh Satikumar and subsequently the building was constructed, flats were sold to several persons. The case requires thorough investigation. Ajay Toraskar and Hitesh Satikumar are absconding. The applicant cannot plead ignorance by stating that he is not a party to the transaction. Permission of owners of the property was not obtained before executing development agreement with accused no.1.

6. On perusal of FIR it is apparent that the applicant was tenant/Kul in respect to the subject plot of land. The building was constructed by developer and flats were also sold to various persons and let out to various persons by accepting huge amount. No permission was obtained for construction. It is pertinent to note that MOU was executed by applicant being tenant in respect to the property without consent of the owners. The development agreement was executed with developer by Ajay Toraskar and building was constructed. In this scenario it is difficult to accept that applicant has not participated in the transaction. The development agreement was executed on the basis of MOU between Ajay Toraskar and applicant. The co-accused are absconding. The applicant cannot feign ignorance about construction. Hence, no case for grant of anticipatory bail is made out. Accordingly, anticipatory bail application is rejected.

7. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)

MST